

---

**By: Senators Kelley, Stone, Hoffman, Lawlah, McFadden, Kasemeyer, Van Hollen, and Hollinger**

Introduced and read first time: January 23, 1996

Assigned to: Budget and Taxation

---

A BILL ENTITLED

1 AN ACT concerning

2 **Closing Costs Reduction - Divorced or Widowed Individuals**

3 FOR the purpose of providing for an exemption from the State transfer tax for certain  
4 individuals who, after the divorce from or death of a spouse and for at least a  
5 certain period of time before settlement, have not owned in the State residential  
6 real property that has been the individual's principal residence; authorizing the  
7 Mayor and City Council of Baltimore City or the governing body of a county to  
8 provide an exemption to the recordation tax or a county transfer tax to individuals  
9 who meet the same criteria; requiring the seller to pay for the State transfer tax and,  
10 unless there is a certain express agreement otherwise, for the recordation tax and  
11 local transfer tax, for certain residential real property sold to those same  
12 individuals; making certain stylistic changes; and generally relating to the reduction  
13 of certain closing costs for certain divorced or widowed individuals who purchase  
14 residential real property.

15 BY repealing and reenacting, with amendments,  
16 Article - Real Property  
17 Section 14-104  
18 Annotated Code of Maryland  
19 (1988 Replacement Volume and 1995 Supplement)

20 BY repealing and reenacting, with amendments,  
21 Article - Tax - Property  
22 Section 12-103, 13-203, and 13-409  
23 Annotated Code of Maryland  
24 (1994 Replacement Volume and 1995 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
26 MARYLAND, That the Laws of Maryland read as follows:

27 **Article - Real Property**

28 14-104.

29 (a) In this section, "first-time Maryland home buyer" means an individual who:

2

1 (1) [has] HAS never owned in the State residential real property that has  
2 been the individual's principal residence; OR

3 (2) AFTER THE DIVORCE FROM OR DEATH OF A SPOUSE AND FOR AT  
4 LEAST 5 YEARS BEFORE SETTLEMENT, HAS NOT OWNED IN THE STATE RESIDENTIAL  
5 REAL PROPERTY THAT HAS BEEN THE INDIVIDUAL'S PRINCIPAL RESIDENCE.

6 (b) Except as provided in subsection (c) of this section, in every written or oral  
7 agreement for the sale or other disposition of property, it is presumed in the absence of  
8 a contrary provision in the agreement or the law, that the parties to the agreement  
9 intended that the cost of any recordation tax or any State or local transfer tax shall be  
10 shared equally between the grantor and grantee. This section does not apply to mortgages  
11 or deeds of trust.

12 (c) (1) The entire amount of recordation tax and local transfer tax shall be paid  
13 by the seller of improved, residential real property that is sold to a first-time Maryland  
14 home buyer who will occupy the property as a principal residence, unless there is an  
15 express agreement between the parties to the agreement that the recordation tax and  
16 local transfer tax will not be paid entirely by the seller.

17 (2) The entire amount of State transfer tax shall be paid by the seller of  
18 improved, residential real property that is sold to a first-time Maryland home buyer who  
19 will occupy the property as a principal residence.

20 (3) This subsection does not apply to tax sales of property under Subtitle 8  
21 of the Property Tax Article.

22 (4) If there are two or more grantees, this subsection does not apply unless  
23 each grantee is a first-time Maryland home buyer or a co-maker or guarantor of a  
24 purchase money mortgage or purchase money deed of trust as defined in §12-108(i) of  
25 the Tax - Property Article for the property and the co-maker or guarantor will not occupy  
26 the residence as the co-maker's or guarantor's principal residence.

27 (5) Paragraphs (1) and (2) of this subsection apply only if each grantee  
28 provides a statement that is signed under oath by the grantee stating that:

29 (i) 1. The grantee is [a first-time Maryland home buyer as defined  
30 under subsection (a) of this section] AN INDIVIDUAL WHO HAS NEVER OWNED IN THE  
31 STATE RESIDENTIAL REAL PROPERTY THAT HAS BEEN THE INDIVIDUAL'S  
32 PRINCIPAL RESIDENCE; and

33 2. The residence will be occupied by the grantee as the  
34 grantee's principal residence;

35 (II) 1. THE GRANTEE IS AN INDIVIDUAL WHO AFTER THE  
36 DIVORCE FROM OR DEATH OF A SPOUSE AND FOR AT LEAST 5 YEARS BEFORE  
37 SETTLEMENT, HAS NOT OWNED IN THE STATE RESIDENTIAL REAL PROPERTY THAT  
38 HAS BEEN THE INDIVIDUAL'S PRINCIPAL RESIDENCE; AND

39 2. THE RESIDENCE WILL BE OCCUPIED BY THE GRANTEE AS  
40 THE GRANTEE'S PRINCIPAL RESIDENCE; or

3

1 [(ii)] (III) 1. The grantee is a co-maker or guarantor of a purchase  
2 money mortgage or purchase money deed of trust as defined in § 12-108(i) of the Tax -  
3 Property Article for the property; and

4 2. The grantee will not occupy the residence as the co-maker's  
5 or guarantor's principal residence.

6 **Article - Tax - Property**

7 12-103.

8 (a) The recordation tax rates under this section are applied to each \$500 or  
9 fraction of \$500 of consideration payable or of the principal amount of the debt secured  
10 for an instrument of writing. The consideration includes the amount of any mortgage or  
11 deed of trust assumed by the grantee.

12 (b) (1) The Mayor and City Council of Baltimore City or the governing body of  
13 a county may set, by law, the recordation tax rate in the county.

14 (2) The Mayor and City Council of Baltimore City or the governing body of  
15 a county may provide for an exemption from the tax of a specified amount of the  
16 consideration payable on the conveyance of owner-occupied residential property if the  
17 buyer intends to use the property as the buyer's principal residence by actually occupying  
18 the residence for at least 7 months of a 12-month period.

19 (3) The governing body of a county or Baltimore City may provide for an  
20 exemption from the recordation tax for an instrument of writing for residentially  
21 improved owner-occupied real property if the instrument of writing is accompanied by a  
22 statement under oath signed by each grantee that:

23 (i) 1. the grantee is an individual who has never owned in the State  
24 residential real property that has been the individual's principal residence; and

25 2. the residence will be occupied by the grantee as the grantee's  
26 principal residence;

27 (II) 1. THE GRANTEE IS AN INDIVIDUAL WHO AFTER THE  
28 DIVORCE FROM OR DEATH OF A SPOUSE AND FOR AT LEAST 5 YEARS BEFORE  
29 SETTLEMENT, HAS NOT OWNED IN THE STATE RESIDENTIAL REAL PROPERTY THAT  
30 HAS BEEN THE INDIVIDUAL'S PRINCIPAL RESIDENCE; AND

31 2. THE RESIDENCE WILL BE OCCUPIED BY THE GRANTEE AS  
32 THE GRANTEE'S PRINCIPAL RESIDENCE; or

33 [(ii)] (III) 1. the grantee is a co-maker or guarantor of a purchase  
34 money mortgage or purchase money deed of trust as defined in § 12-108(i) of this title for  
35 the property; and

36 2. the grantee will not occupy the residence as the co-maker's  
37 or guarantor's principal residence.

38 (c) The recordation tax rate is 55 cents for an instrument of writing for property  
39 that:

4

1 (1) is located in 2 or more counties; and

2 (2) is security for a corporate bond of a public utility.

3 (d) For articles of transfer, articles of merger, or articles of consolidation filed  
4 with the Department under § 3-107 of the Corporations and Associations Article, or  
5 other document filed with the Department which evidences a merger or consolidation of  
6 foreign corporations, foreign limited liability companies, or foreign limited partnerships,  
7 the recordation tax rate is \$1.65. The Department shall collect the recordation tax when  
8 the articles of transfer, articles of merger, articles of consolidation, or other document  
9 which evidences a merger or consolidation of foreign corporations, foreign limited  
10 liability companies, or foreign limited partnerships are filed.

11 (e) (1) For a security agreement filed only with the Department under §  
12 9-401(1)(c) of the Commercial Law Article, the recordation tax rate is:

13 (i) in the case of a single debtor that has a place of business in the  
14 State and in the case of multiple debtors all of whom have a principal place of business in  
15 the same county in the State, the rate set by the county in which the debtors' principal  
16 place of business in the State is located;

17 (ii) in the case of a single debtor that has no place of business in the  
18 State but resides in the State and in the case of multiple debtors none of whom has a  
19 principal place of business in the State but all of whom reside in the same county in the  
20 State, the rate set by the county in which the debtors reside; and

21 (iii) in the case of a single debtor that has no place of business in the  
22 State and does not reside in the State and in the case of multiple debtors not covered  
23 under subparagraph (i) or (ii) of this paragraph, \$1.65.

24 (2) The Department shall collect the recordation tax when the security  
25 agreement is filed.

26 13-203.

27 (a) Except as provided in subsection (b) of this section, the rate of the transfer tax  
28 is 0.5% of the consideration payable for the instrument of writing. The consideration  
29 includes the amount of any mortgage or deed of trust assumed by the grantee.

30 (b) (1) In this subsection, "first-time Maryland home buyer" means an  
31 individual who:

32 (I) has never owned in the State residential real property that has  
33 been the individual's principal residence; OR

34 (II) AFTER THE DIVORCE FROM OR DEATH OF A SPOUSE AND FOR  
35 AT LEAST 5 YEARS BEFORE SETTLEMENT, HAS NOT OWNED IN THE STATE  
36 RESIDENTIAL REAL PROPERTY THAT HAS BEEN THE INDIVIDUAL'S PRINCIPAL  
37 RESIDENCE.

38 (2) If there are two or more grantees, this subsection does not apply unless  
39 each grantee is a first-time Maryland home buyer or a co-maker or guarantor of a  
40 purchase money mortgage or purchase money deed of trust as defined in §12-108(i) of

5

1 this article for the property and the co-maker or guarantor will not occupy the residence  
2 as the co-maker's or guarantor's principal residence.

3 (3) Notwithstanding any other provision of law, for a sale of improved  
4 residential real property to a first-time Maryland home buyer who will occupy the  
5 property as a principal residence, the rate of the transfer tax is 0.25% of the consideration  
6 payable for the instrument of writing and the transfer tax shall be paid entirely by the  
7 seller.

8 (4) To qualify for the exemption under paragraph (3) of this subsection,  
9 each grantee shall provide a statement that is signed under oath by the grantee stating  
10 that:

11 (i) 1. the grantee is [a first-time Maryland home buyer as defined  
12 under this subsection] AN INDIVIDUAL WHO HAS NEVER OWNED IN THE STATE  
13 RESIDENTIAL REAL PROPERTY THAT HAS BEEN THE INDIVIDUAL'S PRINCIPAL  
14 RESIDENCE; and

15 2. the residence will be occupied by the grantee as the grantee's  
16 principal residence;

17 (II) 1. THE GRANTEE IS AN INDIVIDUAL WHO AFTER THE  
18 DIVORCE FROM OR DEATH OF A SPOUSE AND FOR AT LEAST 5 YEARS BEFORE  
19 SETTLEMENT, HAS NOT OWNED IN THE STATE RESIDENTIAL REAL PROPERTY THAT  
20 HAS BEEN THE INDIVIDUAL'S PRINCIPAL RESIDENCE; AND

21 2. THE RESIDENCE WILL BE OCCUPIED BY THE GRANTEE AS  
22 THE GRANTEE'S PRINCIPAL RESIDENCE; or

23 [(ii)] (III) 1. the grantee is a co-maker or guarantor of a purchase  
24 money mortgage or purchase money deed of trust as defined in § 12-108(i) of this article  
25 for the property; and

26 2. the grantee will not occupy the residence as the co-maker's  
27 or guarantor's principal residence.

28 13-409.

29 Any county having a county transfer tax may provide for an exemption from the tax  
30 for an instrument of writing for residentially improved owner-occupied real property if  
31 the instrument of writing is accompanied by a statement under oath signed by each  
32 grantee that:

33 (1) (i) the grantee is an individual who has never owned in the State  
34 residential real property that has been the individual's principal residence; and

35 (ii) the residence will be occupied by the grantee as the grantee's  
36 principal residence;

37 (2) (I) THE GRANTEE IS AN INDIVIDUAL WHO AFTER THE DIVORCE  
38 FROM OR DEATH OF A SPOUSE AND FOR AT LEAST 5 YEARS BEFORE SETTLEMENT,  
39 HAS NOT OWNED IN THE STATE RESIDENTIAL REAL PROPERTY THAT HAS BEEN THE  
40 INDIVIDUAL'S PRINCIPAL RESIDENCE; AND

6

1 (II) THE RESIDENCE WILL BE OCCUPIED BY THE GRANTEE AS THE  
2 GRANTEE'S PRINCIPAL RESIDENCE; or

3 [(2)] (3) (i) the grantee is a co-maker or guarantor of a purchase money  
4 mortgage or purchase money deed of trust as defined in § 12-108(i) of this article for the  
5 property; and

6 (ii) the grantee will not occupy the residence as the co-maker's or  
7 guarantor's principal residence.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 July 1, 1996.